

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

UNITED STATES OF AMERICA

v.

Cr. No. 05-025-01T

RODY ESTEVEZ
A/K/A CHRISTIAN POLANCO
A/K/A JOSE ORTIZ
A/K/A ROBY ESTEVEZ

**ORDER DENYING PETITIONER'S MOTION FOR REDUCTION OF SENTENCE
PURSUANT TO 18 U.S.C. §3582(c)**

Rody Estevez has filed a motion to reduce his sentence pursuant to 18 U.S.C. §3582(c). For the reasons stated below, the motion is denied.

On September 19, 2005, Estevez was sentenced on two counts charging possession of cocaine base with intent to distribute in violation of 21 U.S.C. §841 (a)(1). Since Estevez's net offense level was 27 and his criminal history was in category I, the applicable sentencing guideline range was 70 to 87 months. However, because this Court determined that the 100:1 crack to cocaine powder ratio utilized by the Guidelines was unreasonable, this Court imposed a sentence of 52 months based on the 20:1 ratio recommended by the Sentencing Commission.


On November 1, 2007, the Sentencing Commission amended the Guidelines in order to reduce the disparity in punishment between offenses involving cocaine powder and crack cocaine and made the

amendment retroactive to March 3, 2008. Under the amended Guidelines, Rody Estevez's sentencing range would be 57 to 71 months. Because this Court took the crack/powder disparity into consideration when it imposed the original sentence; and, because the sentence previously imposed is below the newly applicable range, further reduction of Estevez's sentence is "not appropriate," see U.S.S.G. §1B1.10(b)(2)(B), and his motion for reduction of sentence is denied.

By Order


Deputy Clerk

ENTER:


Ernest C. Torres
Sr. U.S. District Judge
Date: August 6, 2008